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RAFAEL VELASQUEZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RAFAEL VELASQUEZ,

Plaintiff,

v.

CEC ENTERTAINMENT, INC., a
Kansas corporation; and DOES 1
through 20, inclusive,

Defendants.

Case No. 2:15-cv-02062-MMM (JPRx)

[Assigned to Hon. Margaret M. Morrow]

STIPULATED PROTECTIVE ORDER

Date Action Filed: February 10, 2015

Date of Removal: March 19, 2015

1 **I. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
 3 proprietary, or private information for which special protection from public disclosure
 4 and from use for any purpose other than prosecuting this litigation may be warranted.
 5 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
 6 Stipulated Protective Order. The parties acknowledge that this Order does not confer
 7 blanket protections on all disclosures or responses to discovery and that the protection it
 8 affords from public disclosure and use extends only to the limited information or items
 9 that are entitled to confidential treatment under the applicable legal principles. The
 10 parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated
 11 Protective Order does not entitle them to file confidential information under seal; Civil
 12 Local Rule 79-5 sets forth the procedures that must be followed and the standards that
 13 will be applied when a party seeks permission from the court to file material under seal.

14 **B. GOOD CAUSE STATEMENT**

15 This action is likely to involve proprietary business information for which special
 16 protection from public disclosure and from use for any purpose other than prosecution
 17 of this action is warranted. Such confidential and proprietary materials and information
 18 consist of, among other things, confidential personal, business, and financial
 19 information, information regarding confidential company policies and practices, or other
 20 confidential research, development, or commercial information (including information
 21 implicating privacy rights of third parties), information otherwise generally unavailable
 22 to the public, or which may be privileged or otherwise protected from disclosure under
 23 state or federal statutes, court rules, case decisions, or common law. Accordingly, to
 24 expedite the flow of information, to facilitate the prompt resolution of disputes over
 25 confidentiality of discovery materials, to adequately protect information the parties are
 26 entitled to keep confidential, to ensure that the parties are permitted reasonable
 27 necessary uses of such material in preparation for and in the conduct of trial, to address
 28 their handling at the end of the litigation, and serve the ends of justice, a protective

1 order for such information is justified in this matter. It is the intent of the parties that
 2 information will not be designated as confidential for tactical reasons and that nothing
 3 be so designated without a good faith belief that it has been maintained in a confidential,
 4 non-public manner, and there is good cause why it should not be part of the public
 5 record of this case.

6 **II. DEFINITIONS**

7 2.1 Action: The pending lawsuit, *Velasquez v. CEC Entertainment, Inc.*, Case
 8 No. 2:15-cv-02062-MMM (JPRx), originally filed in Los Angeles Superior Court as
 9 Case No. BC572095.

10 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
 11 information or items under this Order.

12 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how
 13 it is generated, stored or maintained) or tangible things that qualify for protection under
 14 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
 15 Statement.

16 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
 17 support staff).

18 2.5 Designating Party: a Party or Non-Party that designates information or
 19 items that it produces in disclosures or in responses to discovery as
 20 “CONFIDENTIAL.”

21 2.6 Disclosure or Discovery Material: all items or information, regardless of
 22 the medium or manner in which it is generated, stored, or maintained (including, among
 23 other things, testimony, transcripts, and tangible things), that are produced or generated
 24 in disclosures or responses to discovery in this matter.

25 2.7 Expert: a person with specialized knowledge or experience in a matter
 26 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
 27 expert witness or as a consultant in this Action.
 28

1 2.8 House Counsel: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside
3 counsel.

4 2.9 Non-Party: any natural person, partnership, corporation, association, or
5 other legal entity not named as a Party to this action.

6 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
7 this Action but are retained to represent or advise a party to this Action and have
8 appeared in this Action on behalf of that party or are affiliated with a law firm which has
9 appeared on behalf of that party, and includes support staff.

10 2.11 Party: any party to this Action, including all of its officers, directors,
11 employees, consultants, retained experts, and Outside Counsel of Record (and their
12 support staffs).

13 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
14 Discovery Material in this Action.

15 2.13 Professional Vendors: persons or entities that provide litigation support
16 services (e.g., photocopying, videotaping, translating, preparing exhibits or
17 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
18 their employees and subcontractors.

19 2.14 Protected Material: any Disclosure or Discovery Material that is designated
20 as "CONFIDENTIAL."

21 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
22 from a Producing Party.

23 **III. SCOPE**

24 The protections conferred by this Stipulation and Order cover not only Protected
25 Material (as defined above), but also (1) any information copied or extracted from
26 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
27 Material; and (3) any testimony, conversations, or presentations by Parties or their
28 Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

IV. DURATION

Once a case proceeds to trial, all of the information to be introduced that was previously designated as confidential or maintained pursuant to this protective order becomes public and will be presumptively available to all members of the public, including the press, unless compelling reasons supported by specific factual findings to proceed otherwise are made to the trial judge in advance of the trial. *See Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial with respect to Protected Material used at trial. With respect to all other Protected Material, however, even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs.

V. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose

(e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that contains protected material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL legend" to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identify the Disclosure or Discovery Material on the record, before the close of the deposition.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

VI. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court’s Scheduling Order.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq. Any discovery motion must strictly comply with the procedures set forth in Local Rules 37-1, 37-2, and 37-3.

6.3 Burden. The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party’s designation until the Court rules on the challenge.

VII. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A. Witnesses, and attorneys for witnesses, will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound,” unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions or appointed by the Court.

VIII. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as

1 “CONFIDENTIAL” before a determination by the court unless the Party has obtained
 2 the Designating Party’s permission. The Designating Party shall bear the burden and
 3 expense of seeking protection in court of its confidential material and nothing in these
 4 provisions should be construed as authorizing or encouraging a Receiving Party in this
 5 Action to disobey a lawful directive from another court.

6 **IX. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
 7 **PRODUCED IN THIS LITIGATION**

8 (a) The terms of this Order are applicable to information produced by a
 9 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
 10 produced by Non-Parties in connection with this litigation is protected by the remedies
 11 and relief provided by this Order. Nothing in these provisions should be construed as
 12 prohibiting a Non-Party from seeking additional protections.

13 (b) In the event that a Party is required, by a valid discovery request, to
 14 produce a Non-Party’s confidential information in its possession, and the Party is
 15 subject to an agreement with the Non-Party not to produce the Non-Party’s confidential
 16 information, then the Party shall:

17 (1) promptly notify in writing the Requesting Party and the Non-
 18 Party that some or all of the information requested is subject to a confidentiality
 19 agreement with a Non-Party;

20 (2) promptly provide the Non-Party with a copy of the Stipulated
 21 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 22 specific description of the information requested; and

23 (3) make the information requested available for inspection by the
 24 Non-Party, if requested.

25 (c) If the Non-Party fails to seek a protective order from this court within
 26 14 days of receiving the notice and accompanying information, the Receiving Party may
 27 produce the Non-Party’s confidential information responsive to the discovery request.
 28 If the Non-Party timely seeks a protective order, the Receiving Party shall not produce

any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

X. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

XI. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may, if the Court so permits, incorporate their agreement in the stipulated protective order submitted to the court.

XII. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

XIII. FINAL DISPOSITION

After the final disposition of this Action, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or

1 constitute Protected Material remain subject to this Protective Order as set forth in
2 Section 4 (DURATION).

3 14. Any violation of this Order may be punished by any and all appropriate measures
4 including, without limitation, contempt proceedings and/or monetary sanctions.

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

6
7 Dated: August 18, 2015

AKIN GUMP STRAUSS HAUER & FELD LLP
GARY M. MCLAUGHLIN
JONATHAN S. CHRISTIE

9
10 By /s/ Gary M. McLaughlin
Gary M. McLaughlin
Attorneys for Defendant
CEC ENTERTAINMENT, INC.

11
12
13 Dated: August 18, 2015

TESSER RUTTENBERG & GROSSMAN LLP
BRANDON M. TESSER

14
15 By /s/ Brandon M. Tesser
Brandon M. Tesser
Attorneys for Plaintiff
RAFAEL VELASQUEZ

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17
18
19 ****Filer's Attestation: Pursuant to Local Rule 5-4.3.4(a)(2)(i), Gary M. McLaughlin**
20 **hereby attests that concurrence in the filing of this document and its contents was**
obtained from all signatories listed.

21 **FOR GOOD CAUSE SHOWN, IT IS ORDERED.**

22
23 Dated: August 18, 2015


By 
Hon. Jean P. Rosenbluth
United States Magistrate Judge

EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty
 of perjury that I have read in its entirety and understand the Stipulated Protective Order
 that was issued by the United States District Court for the Central District of California
 on [date] in the case of Velasquez v. *CEC Entertainment, Inc.*, Case No. 2:15-cv-02062-
 MMM (JPRx). I agree to comply with and to be bound by all the terms of this
 Stipulated Protective Order and I understand and acknowledge that failure to so comply
 could expose me to sanctions and punishment in the nature of contempt. I solemnly
 promise that I will not disclose in any manner any information or item that is subject to
 this Stipulated Protective Order to any person or entity except in strict compliance with
 the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for
 the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print or
 type full name] of _____ [print or type full
 address and telephone number] as my California agent for service of process in
 connection with this action or any proceedings related to enforcement of this Stipulated
 Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067. On August 13, 2015, I served the foregoing document(s) described as

[PROPOSED] STIPULATED PROTECTIVE ORDER

on the interested party(ies) below, using the following means:

**All parties identified for Notice of Electronic Filing
generated by the Court's CM/ECF system under the
referenced case caption and number**

☒ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 13, 2015 at Los Angeles, California.

Rebecca McNew

[Print Name of Person Executing Proof]

[Signature]